IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WP(C).No. 17575 of 2007(P)

{O.S.NO.123/2001 OF THE SUB COURT, TIRUR}

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PETITIONER:

CHOLAKKAPULIKKA PARAMBIL POKKER,
S/O.KUTTIRAYU HAJI, THANALUR AMSOM DESOM,
TIRUR TALUK.

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:

1. CHOLAKKA PULIKKAPARAMBIL ALAVIKUTTY HAJI
S/O.KUTTIRAYU HAJI, OZHUR AMSOM DESOM,
TIRUR TALUK.

2. CHOLAKKA PULIKKAPARAMBIL MAMMU,
S/O.KUTTIRAYU HAJI, -DO-, -DO-.

3. CHOLAKKA PULIKKAPARAMBIL KUNEERYA UMMA,
D/O.KUTTIRAYU HAJI, -DO-, -DO-.

4. THITTYKUTTY UMMA,
W/O.CHOLAKKA PULIKKAPARAMBIL KUTTIRAYU HAJI,
-DO-, -DO-.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

W.P.(C) No.17575 of 2007 P

Dated this the 8th day of June, 2007.

JUDGMENT

This writ petition is filed seeking to quash the order passed in I.A.No.366/07 in O.S.No.123/01 on the file of the Subordinate Judge's Court, Tirur.

2. The petition is one for setting aside the Commissioner's report and for issuance of a fresh commission. The brief history of the case would reveal that a commissioner was appointed in the matter and thereafter, an application was filed for remission of the plan and report, which was initially disallowed and subsequently allowed by this court and thereafter, the commissioner inspected the property and prepared a proper plan and report. To set aside that plan and report, the petitioner filed I.A.No.200/06. After hearing the matter, the trial court dismissed that application and thereafter another petition I.A.No.253/06 was filed to review the said order, which also ended in dismissal on

4.2.2006. It is thereafter the present application (I.A.No.366/07) is filed.

3. The learned trial Judge found that the principles of res judicata will apply. A perusal of the entire order would reveal that the learned Sub Judge had applied his mind to the facts of the case, to the decisions on the point and thereafter held that an application of this nature cannot be consecutively entertained, as the party is bound by the principles of res judicata.

I do not find any illegality or irregularity in the order and therefore, the writ petition lacks merit and it is dismissed.

Sd/-

(M.N.KRISHNAN)
JUDGE

sk/

//true copy//

P.S. To Judge